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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,823	02/20/2002	Dennis Colditz	24-NS-120748	7483

23465 7590 12/20/2002

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EXAMINER

PALABRICA, RICARDO J

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683,823

Applicant(s)

COLDITZ ET AL.

Examiner

Rick Palabrica

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-13,16-24 and 27-33 is/are pending in the application.
- 4a) Of the above claim(s) 9,10,19,20,22,29,30 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8,11-13,16-18,21,23,24,27,28,31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Applicant's amendment in Paper No. 8 canceling dependent claims 2, 3, 14, 15, 25 and 26, and amending independent claims 1, 13 and 24, is acknowledged. The amendment essentially limited the independent claims by incorporating therewith the limitations of the associated, now-cancelled dependent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-8, 11-13, 16-18, 21, 23-24, 27, 28, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Gregson (U.S. 3,393,026), Wade (U.S. 4,192,558), Poindexter (U.S. 4,080,254) or Westinghouse Electric Corporation (FR 2373858). Anyone of these references discloses arrangements for refueling of a nuclear reactor.

Gregson shows in Fig. 1 his invention as applied to a steam-generating heavy water moderated reactor. Applicant's claims read on Figs. 1 of Gregson as follows: a) "frame" reads on the plurality of ribs protruding from the exterior surface near the top of

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structure 15; b) "floor covering said frame" reads on structure covering the plurality of ribs; c) "support structure" reads on the stair structure disposed between the floor and structure 17; d) "reactor access opening" reads on the aperture through which refueling machine 15 penetrates the concrete vessel 10; e) "auxiliary platform" reads on auxiliary structure 17; f) "safety rail around the outer perimeter of the floor" reads on rails around the floor covering the ribs; g) "lifting device" reads on the fuel charging mechanism shown extending from the refueling machine 15; h) "safety rail a perimeter of access opening" reads on the outer shell of structure 15; i) "primary containment vessel" reads on the building that encloses the nuclear reactor system, which is inherently present in the case of Gregson's invention. Note that auxiliary platform 17 is movable around the access opening. Also, it is inherent that this platform is made of high strength and rigidity material, such as steel, in view of the massive weight of this structure.

Wade shows in Fig. 1 his invention as applied to a liquid metal reactor.

Applicant's claims read on Figs. 1 of Wade as follows: a) "frame" reads on the inner jacket structure of pressure vessel 14, which structure directly encloses coolant 22; b) "floor covering said frame" reads on structures 24, 26 and 28, particularly their top surfaces; c) "support structure" reads on bolts 32; d) "reactor access opening" reads on the aperture 48 through which rotating plug 30 and transfer machine 52 penetrate the pressure vessel 10; e) "auxiliary platform" reads on rotating plug 30; f) "safety rail around the outer perimeter of the floor" reads on riser assembly 34; g) "lifting device" reads on the fuel transfer machine 52 with grapple 60; h) "safety rail a perimeter of access opening" reads on riser assembly 46; i) "primary containment vessel" reads on

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the building that encloses the nuclear reactor system, which is inherently present in the case of Wade's invention. Note that auxiliary platform 30 is movable around the access opening. Also, it is inherent that this platform is made of high strength and rigidity material, such as steel, in view of the massive weight of this structure.

Poindexter and Westinghouse disclose inventions similar to Wade.

3. Claims 1, 4, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated Petermann et al. (U.S. 3,994,365).

Applicant's language in claim 1, "for a nuclear reactor" is essentially a statement of intended or desired use. Thus is clause, as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of an applicable reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 152 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See also MPEP 2114 that states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531.

Apparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Petermann et al. disclose an apparatus for positioning a person within a container tank. This apparatus has the capability of being adapted for use in a nuclear container tank, such as a reactor pressure vessel. Applicant's claims read on Figs. 1 Petermann et al as follows: a) "frame" reads on structure 12; b) "support structure" reads on structure 48 c) "floor covering said frame" reads on covering 22; d) "reactor access opening" reads on opening 38 penetrated by hoist 14; e) "auxiliary platform" reads on structure 24 showing a worker; g) "lifting device" reads on hoist 14. Note that auxiliary platform 24 is movable around the access opening. Also, it is inherent that this platform is made of high strength and rigidity material, such as steel, in view of the massive weight of this structure.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References D-G further illustrate prior art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 703-306-5756. The examiner can normally be reached on 7:00-4:30, Mon-Fri; 1st Friday off.

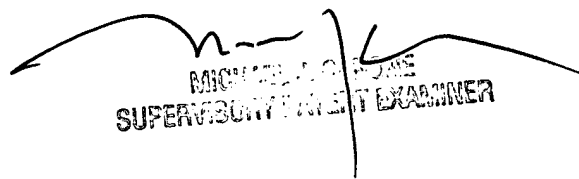
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RJP
December 13, 2002


MICHAEL J. POME
SUPERVISORY INVENT EXAMINER